

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**FILE: **B-183958**DATE: **APR 14 1976**MATTER OF: **James E. King - Real Estate Expenses - Mortgage
and Title Insurance**

DIGEST:

1. Transferred employee may not be reimbursed for CMI Premium fee, which is described as mortgage insurance fee, since Federal Travel Regulations (FPMR 101-7) para. 2-6.2d (May 1973) specifically provides that cost of mortgage insurance is not reimbursable.
2. Transferred employee may be reimbursed for cost of Mortgagee's Title Policy since Federal Travel Regulations (FPMR 101-7) para. 2-6.2d specifically states that cost of mortgagee's title insurance is reimbursable, and such costs are excepted from the definition of finance charges in the Truth in Lending Act.

This matter is before us based upon a request for an advance decision submitted on May 8, 1975, by Ms. Marie A. Watkins, an authorized certifying officer, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, concerning authority to reimburse Mr. James E. King for certain expenses he incurred on October 11, 1973, when he purchased a residence incident to a transfer of permanent duty station.

The expenses involved are \$393.75 for mortgage guarantee insurance ("CMI Premium") and \$516.25 for mortgagee's title insurance ("Mortgagee's Policy"). The CMI Premium has been described, in a February 21, 1975 letter from Stewart Title of Louisiana, Inc., as a fee for the purchase of private mortgage insurance to insure the lender against any loss arising from a default by the buyer and a subsequent seizure and sale of the mortgaged property.

Paragraph 2-6.2d of the Federal Travel Regulations (FTR) authorizes reimbursement of miscellaneous real estate expenses incurred incident to a transfer of permanent duty station and provides, in pertinent part, that:

" * * * The cost of a mortgage title policy paid for by the employee on a residence purchased by him is reimbursable but costs of other types of insurance paid for

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by him, such as an owner's title policy, a 'record title' policy, mortgage insurance, and insurance against damage or loss of property, are not reimbursable items of expense. * * *" (Emphasis added.)

The CMI Premium was a cost paid for "mortgage insurance" within the meaning of FTR para. 2-6.2d (May 1973) and is not reimbursable. B-183611, September 2, 1975; B-162673, November 13, 1967.

Furthermore, FTR para. 2-6.2d also states, in pertinent part, that:

" * * * no fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, Title I, Public Law 90-321 * * *"

The CMI Premium was a part of the "finance charge" since section 106(a)(5) (codified as 15 U.S.C. § 1605(a)(5) (1970)) of the Truth in Lending Act, Public Law 90-321, May 29, 1968, 82 Stat. 148, includes in the definition of "finance charges": a "Premium or other charge for any guarantee or insurance protecting the creditor against the obligor's default or other credit loss." Thus, the CMI Premium is also not reimbursable under FTR para. 2-6.2d since it is a "finance charge." B-176975, November 27, 1972.

The Mortgagee's Policy, for which the claimant requests reimbursement, has been described in the Stewart Title of Louisiana, Inc., letter as a fee for the purchase of Title Insurance on the mortgaged property in order to insure the mortgagee against any loss caused by any defect in title. FTR para. 2-6.2d (May 1973) states in pertinent part that: "The cost of a mortgage title policy paid for by the employee on a residence purchased by him is reimbursable." Furthermore, mortgage title policy costs are not excluded from reimbursement by the provision of FTR para. 2-6.2d (May 1973), quoted above, which denies reimbursement for "finance charges." Section 106(e)(1) (codified as 15 U.S.C. § 1605(e)(1) (1970)) of the Truth in Lending Act excepts from the definition of "finance charges": "fees or premiums for title examination, title insurance, or similar purposes," when such fees are charged in connection with any extension of credit secured by an interest in real property. Thus, the cost of the mortgage title policy on the dwelling purchased by the buyer is reimbursable. 49 Comp. Gen. 483 (1970); B-156118, December 4, 1974.

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Accordingly, Mr. King's claim for \$393.75 for the CMI Premium is disallowed while his claim for \$516.25 for the Mortgage's Policy fee is allowed.

R. F. KELLER

Deputy Comptroller General
of the United States